

DUVAL JONES

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2006 OCT 13 A 9:44

DEBRA P. HACKETT, CLERK  
U.S. DISTRICT COURT  
MIDDLE DISTRICT OF ALA

V

STATE OF ALABAMA

CASE NO. 2:06-CV-720  
WHA

MOTION TO SHOW CAUSE TO CONTINUE  
FEDERAL HABEAS CORPUS

COMES NOW BEFORE THIS COURT, DUVAL JONES, PRO-SE. PETITIONER IN THE ABOVE ENTITLED, STYLED AND NUMBERED CAUSE AND RESPECTFULLY FILES THIS MOTION TO SHOW CAUSE TO CONTINUE FEDERAL HABEAS CORPUS AS ORDERED BY UNITED STATES MAGISTRATE JUDGE HONORABLE SUSAN RUSS WALKER ON OCT. 3RD 2006. THE PETITIONER WILL RESPECTFULLY SHOW THE FOLLOWING IN SUPPORT OF THIS MOTION:

I  
FACTS OF CASE

ON JULY 28TH 2006 THE PETITIONER

(COMI)  
(1)

FILED A PETITION FOR HABEAS CORPUS RELIEF ON OCT 3RD 2006 HONORABLE JUDGE SUSAN RUSS WALKER ORDERED PETITIONER TO SHOW CAUSE WHY HIS FEDERAL HABEAS CORPUS PETITION SHOULD NOT BE DENIED AS IT WAS NOT FILED WITHIN THE ONE-YEAR LIMITATION PERIOD ESTABLISHED BY 28 U.S.C. § 2244 (D)(1).

II  
RELIEF SOUGHT  
TO CONTINUE SAID CAUSE

III  
GROUND FOR RELIEF

THE COURTS INTERPRETED THAT THE PETITIONERS CONVICTION BECAME FINAL BY OPERATION OF LAW ON JULY 30TH 2002 AND THERE WAS NO DIRECT APPEAL FILED BY THE PETITIONER THEREFORE THE FILING OF THE PETITIONERS FEDERAL HABEAS CORPUS ON JULY 28TH 2006 SHOULD BE BARRED BY THE ONE YEAR LIMITATION PERIOD APPLICABLE TO 28 U.S.C. § 2254 PETITIONS. TIME CALCULATED FROM JULY 28TH 2006 BACK TO JULY 30TH 2002. THE PETITIONER DUE TO LIMITED ACCESS TO COURT FROM THE TRANSITION FROM THE COUNTY JAIL TO THE ALABAMA DEPT. OF CORRECTIONS AND OTHER FACTORS FAILED TO DIRECTLY

APPEAL SAID CAUSE WITHIN A TIMELY MANNER  
SO TO EXHAUST STATE REMEDIES WAS ALLOWED  
TO SEEK RELIEF THROUGH POST-CONVICTION RULE  
32 PETITIONS ONE ON FEB 2, 2005 AND ON OCT  
31ST 2005. THESE PETITIONS WHERE HEARD AND  
THE PETITION OF OCT 31ST 2005 WAS NOT DENIED  
FOR UNTIMELY MANNER, AND IT IS HELD THAT  
THE PETITIONER MUST EXHAUST STATE REMEDIES  
BEFORE SEEKING RELIEF UNDER SECTION 2254, THIS  
OCT 31ST 2005 WOULD PUT THE PETITIONER WITHIN  
THE ONE YEAR LIMITATION REQUIRED BY THIS  
COURT.

THEREFORE WITH ALL PREMISES  
CONSIDERED AND THE HEARING OF THIS MOTION  
I THEREFORE PRAY THAT THIS COURT GRANT  
SAID MOTION AND CONTINUE CAUSE

RESPECTFULLY SUBMITTED

Dival Jones

DIVAL JONES 189486  
FOUNTAIN 3800  
ATMORE, AL. 36503

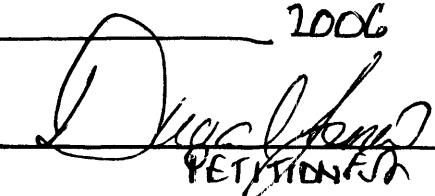
CONTI  
(3)

UNSWORN AFFIDAVIT

I HEREBY SWEAR UNDER  
PENALTY OF PERJURY THAT THE FOREGOING STATE-  
MENTS AND ALLEGATIONS OF THIS MOTION ARE  
TRUE AND CORRECT TO THE BEST OF MY KNOW-  
LEDGE

ON THIS THE 9TH DAY OF  
OCT.

2006

  
\_\_\_\_\_  
PETITIONER

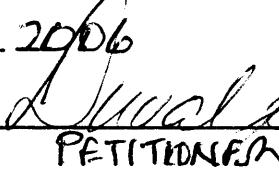
CERTIFICATE OF SERVICE

I DECLARE THAT A TRUE AND  
CORRECT COPY OF A MOTION TO SHOW CAUSE TO CONTINUE  
FEDERAL HABEAS CORPUS WAS MAILED BY WAY  
OF U.S. POSTAL SERVICE TO:

CLERK  
U.S. DISTRICT COURT  
P.O. BOX 711  
MONTGOMERY, AL. 36101

ON THIS THE 9TH DAY OF  
OCT

2006

  
\_\_\_\_\_  
PETITIONER

(H)